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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,795	05/01/2001	Jack H. Linn	87552.055101/SE-1472TD.A	7145

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EXAMINER

SARKAR, ASOK K

ART UNIT

PAPER NUMBER

2829

DATE MAILED: 01/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/846,795

Applicant(s)

LINN ET AL.

Examiner

Asok K. Sarkar

Art Unit

2829

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☐ The proposed amendment(s) will not be entered because:  
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 24-44 and 46-48.Claim(s) withdrawn from consideration: 49-56.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_  
10. ☐ Other: \_\_\_\_\_

  
KAMAND CUNEO  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800

Continuation of 5. does NOT place the application in condition for allowance because: The Examiner provided the final rejection using the same reference as was used for the nonfinal rejection (Paper No. 7) and also provided an explanation for the basis of the rejection. However, no separate response to the arguments was provided at the time since the Examiner thought that the new ground of rejection and the brief explanation regarding the product formed by different processes will be adequate. In view of Applicant's comments in paper No. 12, the Examiner provides the following detailed explanation to each of Applicant's arguments to ensure that the Applicant clearly understands the Examiner's position. Regarding the independent claims 24, 26, 28 and 38, the Applicant argues in pages 2 - 4 of paper No. 12 that Henley reference does not teach forming a semiconductor device on a second layer of undamaged monocrystalline semiconductor material or on a layer of epitaxial monocrystalline layer deposited on the second layer, the substantially planar intrinsic gettering layer being deposited substantially at a depth between the first layer of monocrystalline semiconductor material and the second layer of undamaged semiconductor material. The instant invention claims a product (semiconductor device) and therefore should be compared to the product taught by the reference. As was previously mentioned in the final rejection, the product taught by Henley is indistinguishable from the present invention since the heating step in forming Henley's device will heal the implantation damage in Henley's device and restore it to the original undamaged condition as claimed by the instant invention. An epitaxial layer can be grown on the undamaged silicon layer as is shown by Henley in Fig. 1D and the gettering zone in Henley's device is also substantially planar as shown in Fig. 8. Since Henley's device has an annealed layer, the same layer is indistinguishable from the Applicant's undamaged monocrystalline silicon layer. Henley's annealed layer is monocrystalline since he grows epitaxial layer 18 on the undamaged layer 12 as shown in Figs. 1C and 1D.

The Applicant's argument regarding the dependent claims in page 4 is that they were rejected based on the same references as were used in the First Office Action. Again the Examiner states that as was previously mentioned in the final rejection, the product taught by Henley is indistinguishable from the present invention since the heating step in forming Henley's device will heal the implantation damage in Henley's device and restore it to the original undamaged condition as claimed by the instant invention. The Examiner states that the process of making a device receives weight for a device claim to the degree that it defines the structure. The old rejection was repeated since it was also applicable to these dependent claims.